IN THE HIGH COURT OF JUDICATURE AT BOMBAY
O.O.C.J.

Summons for Judgment No. 181 of 2007
in
Summary Suit No.3073 of 2005

Televideo Electronics
Private Limited ..Plaintiffs

vs.

Inderraj Kappor ..Defendants

Ms.Kavita A.Shah i/b Mr.A.G.Shah for plaintiffs
Ms.Shubhangi Chavan i/b Mr.A.M.Saraogi for defendants.

CORAM: S.C.DHARMADHIKARI J.
16th **July, 2007**

P.C.

1. The amount claimed by the plaintiffs is of dishonoured cheques and the cheques amount is Rs.10,00,000/-

2. The Argument of Ms.Shah appearing for the plaintiff is that till 2003 the defendant was paying interest on the sum which was advanced as and by way of loan to enable the defendant to carry on the business of distribution of films. She submits that the defendant agreed to pay interest at the rate of 18% p.a. That amount was paid by him for some time and later on the post dated cheque was dishonoured and that is how after the suit notice, the present suit has been filed.

3. The defence raised on behalf of the defendant is that

the suit is not maintainable and considering that there is no agreement to pay any interest so also the entire distribution of films was undertaken at the behest of the plaitiffs who were in common business.The amount which was advanced by them allegedly as a loan was to be adjusted towards the rights in the respective feature films.

4. After having heard Ms.Shah appearing for the plaintiffs and Shri Saraogi appearing for the defendant so also perusing the plaint and affidavit on record, in my view, there is no denial of the claim in so far as thesum under the dishonoured cheque is concerned. The cheque was admittedly given and was dishonoured. As far as the case set up in the affidavit in reply if the defendant desires to make good the same an opportunity can be given to the defendant but by imposing appropriate conditions.

5. Taking over all view of the matter, interest of justice would be subserved if the defendant is granted conditional leave to defend the present summary suit. Hence, the following order.

6. On the defendant depositing inthis Court a sum of Rs.10,00,000/- within a period of 16 weeks from today, conditional leave to defend and thereupon the suit shall stand transferred to the list of commercial causes with usuaul directions such as filing of the written statement.

discovery and inspection. In default consequences in law would follow. Summons for judgment is disposed of with no order as to costs.

7. Ms.Shah clarifies that inadvertantly a statement was made on oath in the affidavit that criminal complaint was dismissed but later on after obtaining instructions the true position was brought on record that those proceedings are still pending.

(S.C.DHARMADHIKARI J.)